



Zielke Law Firm PLLC

ATTORNEYS AT LAW

1250 MEIDINGER TOWER
462 SOUTH FOURTH AVENUE
LOUISVILLE, KY 40202-3465
(502) 589-4600 • FAX (502) 584-0422
WWW.ZIELKEFIRM.COM

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AUG 13 2008

PUBLIC SERVICE
COMMISSION

Case No. 2008.00335

August 13, 2008

HAND DELIVERY – EMERGENCY ACTION REQUESTED

Ms. Stephanie L. Stumbo
Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602

Re: Insight Phone of Kentucky, LLC, dispute with Windstream Kentucky East, LLC, and Windstream Kentucky West, LLC, regarding failure to provide account numbers and freeze information—Request for Emergency Hearing

Dear Ms. Stumbo:

We are counsel to Insight Phone of Kentucky, LLC, a competitive local exchange carrier. Insight requests an immediate emergency order by the Commission to stop Windstream Kentucky East, LLC, and Windstream Kentucky West, LLC, (collectively “Windstream”) from refusing ports for failure to provide account numbers while refusing access to account numbers. Windstream’s actions violate federal law and breach the Interconnection Agreements between Windstream and Insight. Windstream also refuses to provide account freeze information.

Windstream’s illegal actions occur in situations where customers have authorized Insight Phone to access their Windstream customer proprietary network information (“CPNI”) which includes account numbers and freeze information. Under federal law and the ICA, Windstream is required to provide access to CPNI when a customer has granted Insight such authority. Windstream requires account numbers for all ports but refuses to provide account numbers thus burdening consumers with the task of knowing a number that is meaningful only to Windstream. This burden will prevent consumers from switching telephone providers. Insight asks that the Commission convene an emergency hearing to consider these issues.

Windstream could remove the impermissible burden on consumers in one of two ways (1) not requiring account numbers for ports or (2) requiring the account numbers but making those numbers available on their Windstream Express interface.

Insight has made every attempt to communicate its concerns to Windstream including holding a high level meeting between Windstream executives and Insight Phone executives in Louisville, Kentucky, on August 7, 2008. Unfortunately, the meeting and subsequent negotiations did not resolve the issue leaving Insight with no recourse but to file this action. We have provided a courtesy copy of the Complaint and Motion as well as this letter to Windstreams' counsel.

Sincerely,

A handwritten signature in black ink, appearing to read "Laurence J. Zielke". The signature is written in a cursive style with a large initial "L".

Laurence J. Zielke
Janice M. Theriot

cc: Kimberly Bennett, Esq.

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AUG 13 2008

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FORMAL COMPLAINT FOR EMERGENCY RELIEF)
BY INSIGHT PHONE OF KENTUCKY, LLC TO)
REQUIRE WINDSTREAM KENTUCKY EAST, LLC)
AND WINDSTREAM KENTUCKY WEST, LLC)
TO PROVIDE ACCOUNT NUMBERS WHEN)
AUTHORIZED BY CUSTOMERS IF IT REQUIRES)
AN ACCOUNT NUMBER FOR PORTS)

CASE NO.
2008-00335

FORMAL COMPLAINT

INTRODUCTION

Insight Phone of Kentucky, LLC (hereinafter "Insight Phone"), by counsel, hereby petitions the Public Service Commission of the Commonwealth of Kentucky (hereinafter "Commission") to enter an order for emergency relief requiring Windstream Kentucky East, LLC and Windstream Kentucky West, LLC (hereinafter, collectively "Windstream") to either stop requiring account numbers for ports or, if it requires account numbers, to provide them on its Windstream Express interface when a customer has authorized it.

PARTIES

1. Windstream is an incumbent local exchange telecommunication company ("ILEC") authorized to provide telecommunications in the Commonwealth of Kentucky.
2. Windstream is organized under the laws of the State of Delaware and has its primary place of business located in Little Rock, Arkansas.
3. Insight Phone is a certified competitive local exchange telecommunications company ("CLEC") which is authorized to provide local telecommunication services in the

Commonwealth of Kentucky. It is organized under the laws of the State of Delaware. Its primary place of business is in Kentucky.

JURISDICTION

4. The Telecommunications Act of 1996 47 U.S.C. § 251 (hereinafter “the Act”) requires telephone number portability and requires that providers not unreasonably obstruct or delay the porting process.

5. The Public Service Commission of Kentucky has also been granted jurisdiction over interconnection agreements and telecommunications carriers pursuant to KRS 278.54611. The jurisdiction of the Public Service Commission of Kentucky to hear this Formal Complaint is further authorized pursuant to KRS 278.530.

FACTS

6. Insight Phone and Windstream have two Interconnection Agreements (“ICA”) approved by this Commission (one for Windstream West, the other for Windstream East) with identical Section 17 language which explicitly states “Subject to applicable rules, orders, and decisions, Windstream will provide Insight Phone with access to Customer Proprietary Network Information (CPNI) for Windstream End Users upon Insight Phone providing Windstream a signed blanket Letter of Agency (LOA) for Windstream’s Customer of record.” Section 17 reads as follows:

17.0 Changes in Subscriber Carrier Selection

17.1 Each Party will abide by applicable state or federal laws and regulations in obtaining End User authorization prior to changing End User’s Local Service Provider to itself and in assuming responsibility for any applicable charges as specified in §258 (b) of the Telecommunications Act of 1996. Either Party shall make authorization available to the other Party upon reasonable requests and at no charge.

17.2 If an End User notifies either Party that the End User requests local exchange service, the Party receiving such request shall be free to immediately provide service to such End User.

17.3 When an End User changes or withdraws authorization, each Party will release Customer specific facilities in accordance with the Customers' direction or the End User's authorized agent.

17.4 Subject to applicable rules, orders, and decisions, Windstream will provide Insight with access to Customer Proprietary Network Information (CPNI) for Windstream End Users upon Insight providing Windstream a signed blanket Letter of Agency (LOA) for Windstream's Customer of record, based on Insight's representation that subscriber has authorized Insight to obtain such CPNI.

17.4.1 The Parties agree that they will conform to FCC and/or state regulations regarding the provisioning of CPNI between the Parties, and regarding the use of that information by the requesting Party.

17.4.2 The requesting Party will document End User permission obtained to receive CPNI, whether or not the End User has agreed to change Local Service Providers. For End users changing service from one Party to the other, specific End User LOAs may be requested by the Party receiving CPNI requests to investigate slamming complaints, and for other reasons agreed to by the Parties.

17.4.3 CPNI requests will be processed in accordance with the following:

17.4.3.1 For Customers with 1-25 lines: one (1) business day.

17.4.3.2 For Customers with 26+ lines: two (2) business days.

17.4.4 If the Parties do not agree that Insight requested CPNI for a specific End User, or that Windstream has erred in not accepting proof of an LOA, the Parties may immediately request dispute

resolution in accordance with General Terms & Conditions, §9.0, Dispute Resolution.

17.5 Windstream will only accept an LOA for a Windstream Customer of record. Insight may delegate its obligation to obtain written authorization from Windstream's Customer of record to a third party only after Insight has provided Windstream a Letter of Agency on Insight letterhead, and signed by an authorized Insight representative identifying the third party name, and specific functions by state the third party is authorized to perform on behalf of Insight.

7. Insight Phone provided Windstream a signed blanket LOA on January 2, 2008, and Windstream has been providing Insight Phone with access to most, but not all, CPNI. A copy of the blanket LOA is attached to this Complaint as Exhibit A.

8. CPNI as used in the ICA is defined in 47 U.S.C. §222(h)(1)(B) as including "information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier."

9. For each customer of Windstream, the CPNI includes Windstream's account number and whether an account has a freeze on it.

10. Under the ICA, Windstream is contractually required to provide the account number and freeze information when the customer authorized Insight Phone to obtain that information.

11. To provide access to CPNI, Windstream has created a GUI called "Windstream Express" for use by telephone providers with authority to access CPNI such as Insight Phone when a customer agrees to change telephone providers from Windstream to Insight Phone; Windstream Express, however, contains only some of the CPNI omitting freeze information and account numbers, for example.

12. In addition to the blanket LOA, Insight Phone has consumers sign an individual LOA which is kept in case any question is later raised about Insight Phone's authority; the individual LOA includes the statement authorizing Windstream to provide all CPNI including the account

number and any account freezes. A copy of the LOA form is attached to this Complaint as Exhibit B.

13. Federal law requires that Windstream disclose CPNI upon affirmative written request made by a customer to any person designated by that customer. 47 U.S.C. §222(c)(2).

14. The FCC recently affirmed that “Existing Commission rules have made clear that providers cannot unreasonably obstruct or delay the porting process, for example by demanding far more information than needed to fulfill the request.” FCC June 4, 2008, Small Entity Compliance Guide Local Number Portability, DA 08-1317.

15. The FCC also stated “Local number portability cannot be effective if the mechanisms used by providers to port numbers are so burdensome that they discourage use.” FCC June 4, 2008, Small Entity Compliance Guide Local Number Portability, DA 08-1317.

16. Also, “Entities subject to the Commission’s LNP [local number portability] obligations may not demand information beyond what is required to validate the port request and accomplish the port.” FCC June 4, 2008, Small Entity Compliance Guide Local Number Portability, DA 08-1317.

17. Windstream notified Insight Phone that, beginning August 1, 2008, it will require customers to provide account numbers for all ports.

18. Before August 1, 2008, Windstream performed ports without account numbers; therefore, account numbers are not required to validate the port request and accomplish the port.

19. Insight Phone contacted Windstream to request that if Windstream requires account numbers then Windstream should make the account numbers available pursuant to the ICA and federal law.

20. Windstream has refused to provide account numbers thus interfering with the customers' right to choose a telephone service provider.

21. Windstream representatives stated that requiring the customer to provide an account number would protect against slamming; however, slamming is not an issue with local telephone services such as the services provided by Insight Phone because in order to serve a customer, Insight Phone must physically go to the customer's home and install wiring and equipment, something that cannot occur without the customer's consent.

22. Applicable law contains protections against slamming and Windstream is not allowed to apply protections beyond those authorized by law when the protections place roadblocks to portability.

23. As a result of Windstream's actions, if a customer does not have ready access to their account number, a port cannot occur and that customer cannot change telephone service providers.

24. Upon information and belief, very few customers know their account number and they will only be able to provide it by providing a copy of a bill from Windstream, which they may not have kept or may not have with them, thus frustrating the ability of customers to choose a telephone provider.

25. Insight Phone has made every attempt to communicate its concerns to Windstream including holding a high level meeting between Windstream executives and Insight Phone executives in Louisville, Kentucky, on August 7, 2008, and subsequent negotiations through August 13, 2008, which did not result in Windstream changing its anti-competitive practices leaving Insight Phone with no recourse but to file this action.

WHEREFORE, Insight Phone respectfully requests that the Public Service Commission take the following action:

(a) Issue an order to Windstream compelling it either (1) not require account numbers for ports or (2) if account numbers are required, to provide account numbers for customers who have authorized Insight Phone to access their CPNI including account number;

(b) Issue an order to Windstream compelling it to provide freeze information for customers who have authorized Insight Phone to access their CPNI;

(c) Expedite this matter so as to remove the burden placed by Windstream on Kentucky's consumers;

(d) Conduct an emergency hearing on this matter;

(e) Take such other action as is necessary to prevent Windstream from continuing to breach its ICA with Insight Phone and violating the law;

(f) Award Insight Phone damages including its attorney fees and costs for this matter; and

(g) Grant all other necessary and proper relief to which Insight Phone is entitled.

Respectfully submitted,



Laurence J. Zielke
Janice M. Theriot
Zielke Law Firm PLLC
462 S. 4th Street
Suite 1250
Louisville, KY 40202

Counsel for Insight Phone of Kentucky, LLC



Insight Communications, 1105 Avenue of the Americas, New York, NY 10018, United States, Tel: 917-286-2301, Fax: 917-286-2301

January 2, 2008

Traci Brunner
Manager - Negotiations

Windstream | Interconnection Services
4001 Rodney Parham Rd.
Mailstop: 1170 B3F03-84A
Little Rock, Arkansas 72212
t: 501.748.6555
f: 501.748.6583
traci.brunner@windstream.com

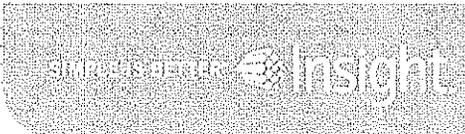
RE: Blanket Letter of Agency - Insight Authorizes Accenture

Dear Mrs. Brunner,

Insight hereby authorizes Accenture to submit to Windstream requests for CSI records and orders to port in local numbers from Windstream on behalf of Insight end users. Insight attests that it will only instruct Accenture to make such requests if the end user has authorized Insight to initiate the porting request. This authorization will include orders for directory listings orders until such time that Windstream no longer accepts directory listings orders due to the sale of their publishing business and transition of such work has been completed. Insight will notify Windstream in writing when Accenture is no longer authorized to submit ports on Insight's behalf.

Sincerely,

Gregory Cameron
VP of Telecom Legal Affairs
Insight Midwest Holdings, LLC
Cameron.G@Insightcom.com
917-286-2254 ph
917-286-2301 fx



InsightPhone 2.0

Installation Date: _____

ICOMS Account Number: _____

Letter of Agency for Insight Phone 2.0 Service

Please print your name, address and telephone number below.

Account Name: _____

Billing Address: _____

Telephone Number(s) covered by this Letter of Agency (with Area Code): _____

For the telephone number(s) listed above, this letter is to authorize and designate Insight to act as my agent in order to: (please initial each box next to the following statements)

<input type="checkbox"/>	Change my Local telephone carrier from _____ to Insight Phone 2.0.
<input type="checkbox"/>	Remove any freeze on my current local telephone service.
<input type="checkbox"/>	Change my Local toll service from _____ to Insight Phone 2.0.
<input type="checkbox"/>	Remove any freeze on my current local toll telephone service.
<input type="checkbox"/>	Change my Long Distance service from _____ to Insight Phone 2.0.
<input type="checkbox"/>	Remove any freeze on my current long distance telephone service.

My signature on this form authorizes Insight Phone 2.0, or its designated agent, to act as my agent to switch my local, local toll, and long distance service to Insight Phone 2.0 and confirms my understanding that I may select only one preferred carrier for each such service on the telephone number(s) above. I understand that my signature authorizes Insight Phone 2.0, or its designated agent, to notify my local telephone company of my decision to lift any existing preferred carrier freeze on my local, local toll, and/or long distance service and switch to Insight Phone 2.0 as my primary residential local, local toll, and long distance service provider. My signature below authorizes Insight Phone 2.0, or its designated agent, to access my existing account records from my local telephone company to process my order. I have a right and Insight Phone 2.0, or its designated agent, has a duty to protect the information contained in those records and we will not share it with anyone. My local telephone company may charge me a fee or fees to switch my local, local toll and/or long distance service. By my signature below I agree to be bound by the terms and conditions set forth in the Insight Phone 2.0 Service Agreement posted on the Insight website at www.insightcom.com, including those pertinent to 911 services and to the rates, terms and conditions of use, all of which are incorporated herein by reference. By signing this form, I confirm that I am at least 18 years of age, a named decision-maker on the account authorized to switch the local, local toll and long distance services for the telephone number(s) listed on this form.

Signature: _____

Date: _____